

§ 103.8

(i) Application for Advance Permission to Enter as Nonimmigrant;

(ii) Application for Waiver for Passport and/or Visa;

(iii) Application to Register Permanent Residence or Adjust Status;

(iv) Application for Waiver of Grounds of Inadmissibility.

(5) *Immigration Court fees.* The provisions relating to the authority of the immigration judges or the Board to waive fees prescribed in paragraph (b) of this section in cases under their jurisdiction can be found at 8 CFR 1003.8 and 1003.24.

(6) *Fees under the Freedom of Information Act (FOIA).* FOIA fees may be waived or reduced if DHS determines that such action would be in the public interest because furnishing the information can be considered as primarily benefiting the general public.

(d) *Exceptions and exemptions.* The Director of USCIS may approve and suspend exemptions from any fee required by paragraph (b)(1)(i) of this section or provide that the fee may be waived for a case or specific class of cases that is not otherwise provided in this section, if the Director determines that such action would be in the public interest and the action is consistent with other applicable law. This discretionary authority will not be delegated to any official other than the USCIS Deputy Director.

(e) *Premium processing service.* A person submitting a request to USCIS may request 15 calendar day processing of certain employment-based immigration benefit requests.

(1) *Submitting a request for premium processing.* A request for premium processing must be submitted on the form prescribed by USCIS, including the required fee, and submitted to the address specified on the form instructions.

(2) *15-day limitation.* The 15 calendar day processing period begins when USCIS receives the request for premium processing accompanied by an eligible employment-based immigration benefit request.

(i) If USCIS cannot reach a final decision on a request for which premium processing was requested, as evidenced by an approval notice, denial notice, a notice of intent to deny, or a request

8 CFR Ch. I (1–14 Edition)

for evidence, USCIS will refund the premium processing service fee, but continue to process the case.

(ii) USCIS may retain the premium processing fee and not reach a conclusion on the request within 15 days, and not notify the person who filed the request, if USCIS opens an investigation for fraud or misrepresentation relating to the benefit request.

(3) *Requests eligible for premium processing.*

(i) USCIS will designate the categories of employment-related benefit requests that are eligible for premium processing.

(ii) USCIS will announce by its official Internet Web site, currently <http://www.uscis.gov>, those requests for which premium processing may be requested, the dates upon which such availability commences and ends, and any conditions that may apply.

(f) *Authority to certify records.* The Director of USCIS, or such officials as he or she may designate, may certify records when authorized under 5 U.S.C. 552 or any other law to provide such records.

[38 FR 35296, Dec. 27, 1973]

EDITORIAL NOTES: 1. For FEDERAL REGISTER citations affecting § 103.7, see the List of CFR Sections Affected, which appears in the Finding Aids section of the printed volume and at www.fdsys.gov.

2. At 73 FR 55698, Sept. 26, 2008, § 103.7 was amended by revising Form I-290B. However the amendment could not be incorporated because the text of the newly revised form was not provided.

§ 103.8 Service of decisions and other notices.

This section states authorized means of service by the Service on parties and on attorneys and other interested persons of notices, decisions, and other papers (except warrants and subpoenas) in administrative proceedings before Service officers as provided in this chapter.

(a) *Types of service—(1) Routine service.* (i) Routine service consists of mailing the notice by ordinary mail addressed to the affected party and his or her attorney or representative of record at his or her last known address, or

Department of Homeland Security

§ 103.10

(ii) If so requested by a party, advising the party of such notice by electronic mail and posting the decision to the party's USCIS account.

(2) *Personal service.* Personal service, which shall be performed by a Government employee, consists of any of the following, without priority or preference:

(i) Delivery of a copy personally;

(ii) Delivery of a copy at a person's dwelling house or usual place of abode by leaving it with some person of suitable age and discretion;

(iii) Delivery of a copy at the office of an attorney or other person, including a corporation, by leaving it with a person in charge;

(iv) Mailing a copy by certified or registered mail, return receipt requested, addressed to a person at his last known address; or

(v) If so requested by a party, advising the party by electronic mail and posting the decision to the party's USCIS account.

(3) *Personal service involving notices of intention to fine.* In addition to any of the methods of personal service listed in paragraph (a)(2) of this section, personal service of Form I-79, Notice of Intention to Fine, may also consist of delivery of the Form I-79 by a commercial delivery service at the carrier's address on file with the National Fines Office, the address listed on the Form I-849, Record for Notice of Intent to Fine, or to the office of the attorney or agent representing the carrier, provided that such a commercial delivery service requires the addressee or other responsible party accepting the package to sign for the package upon receipt.

(b) *Effect of service by mail.* Whenever a person has the right or is required to do some act within a prescribed period after the service of a notice upon him and the notice is served by mail, 3 days shall be added to the prescribed period. Service by mail is complete upon mailing.

(c) *When personal service required—(1) Generally.* In any proceeding which is initiated by the Service, with proposed adverse effect, service of the initiating notice and of notice of any decision by a Service officer shall be accomplished

by personal service, except as provided in section 239 of the Act.

(2) *Persons confined, minors, and incompetents—(i) Persons confined.* If a person is confined in a penal or mental institution or hospital and is competent to understand the nature of the proceedings initiated against him, service shall be made both upon him and upon the person in charge of the institution or the hospital. If the confined person is not competent to understand, service shall be made only on the person in charge of the institution or hospital in which he is confined, such service being deemed service on the confined person.

(ii) *Incompetents and minors.* In case of mental incompetency, whether or not confined in an institution, and in the case of a minor under 14 years of age, service shall be made upon the person with whom the incompetent or the minor resides; whenever possible, service shall also be made on the near relative, guardian, committee, or friend.

(d) *When personal service not required.* Service of other types of papers in proceedings described in paragraph (c) of this section, and service of any type of papers in any other proceedings, may be accomplished either by routine service or by personal service.

[37 FR 11470, June 8, 1972, as amended at 39 FR 23247, June 27, 1974; 62 FR 10336, Mar. 6, 1997; 64 FR 17944, Apr. 13, 1999. Redesignated and amended at 76 FR 53781, Aug. 29, 2011]

§ 103.9 Request for further action on an approved benefit request.

(a) *Filing a request.* A person may request further action on an approved benefit request as prescribed by the form instructions. Requests for further action may be submitted with the original benefit request or following the approval of such benefit.

(b) *Processing.* The request will be approved if the requester has demonstrated eligibility for the requested action. There is no appeal from the denial of such request.

[Redesignated and amended at 76 FR 53781, Aug. 29, 2011]

§ 103.10 Precedent decisions.

(a) Proceedings before the immigration judges, the Board of Immigration Appeals and the Attorney General are